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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Andy Gonzalez,

10 Plaintiff,

11 v.

12 Cecilia Benabidez,

13 Defendant.
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No. CV-24-00452-TUC-LCK

**REPORT AND
RECOMMENDATION**

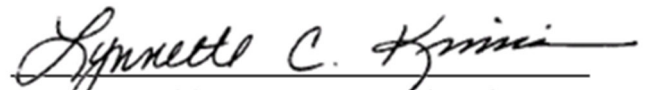
15 Plaintiff Andy Gonzalez filed a civil Complaint against Defendant Cecilia
16 Benabidez. (Doc. 1.) Plaintiff also filed an Application to Proceed Without Prepaying
17 Costs. (Doc. 2.) The Court reviewed the application and denied it with leave for Plaintiff
18 to refile a new application or pay the filing fee. (Doc. 9 at 1-2.) The Court also dismissed
19 Plaintiff's Complaint for lack of subject matter jurisdiction. (*Id.* at 3-6.) The Court's
20 dismissal was without prejudice and with leave to amend. (*Id.* at 4-6.) The Court gave
21 Plaintiff until November 22, 2024, to file an amendment and warned him that if he did not
22 file an amendment within that deadline, "this case will be subject to dismissal without
23 further notice." (*Id.* at 6.)

24 To date, Plaintiff has not filed a new application to proceed without paying the filing
25 fee, paid the filing fee, or filed an amended complaint. Because the filing fee has not been
26 paid or waived, and the Court did not have subject matter jurisdiction over the original
27 Complaint (which has been dismissed), this case cannot proceed. After being warned of
28 the repercussions of not filing an amended pleading, Plaintiff chose not to do so. Therefore,

1 this case should be dismissed without further notice. Because there is not, and absent the
2 Defendant's appearance cannot be, full consent to Magistrate Judge jurisdiction in this
3 case, the assigned Magistrate Judge submits a Report and Recommendation to Senior
4 District Judge Raner C. Collins. Gen. Ord. 21-25.

5 Based on the foregoing, the Magistrate Judge recommends that the District Court
6 enter an order dismissing this case without prejudice and directing the Clerk of Court to
7 close this case. Pursuant to Federal Rule of Civil Procedure 72(b)(2), Plaintiff may serve
8 and file written objections within fourteen days of being served with a copy of the Report
9 and Recommendation. If objections are not timely filed, they may be deemed waived.

10 Dated this 16th day of December, 2024.

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14 Honorable Lynnette C. Kimmins
United States Magistrate Judge
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